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MORRISON & FOERSTER LLP			TOPYAL, GELEK W	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/758,935	Applicant(s) SKAAR, DANIEL R.
	Examiner GELEK TOPGYAL	Art Unit 2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 31 July 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 28-39 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 28-39 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 14 January 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/06/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____

5) Notice of Informal Patent Application

6) Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 28-32 and 37-39 have been considered but are moot in view of the new ground(s) of rejection.
2. Applicant's arguments filed 7/31/2008 have been fully considered but they are not persuasive. In re page 12, the applicants argue with respect to claims 33-36 that Oguro does not teach a Cipher key and that SCMS data is not a cipher key. In response, the examiner respectfully disagrees. A Cipher Key is a code used to enable another set of information to be used, as such, SCMS data can allow or prohibit playback/recording of data, this instance of the SCMS data can be read as a cipher key, since without the code (for allowing recording), the data cannot be read/written.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 33-36** are rejected under 35 U.S.C. 102(b) as being anticipated by Oguro (US 5,907,656).

Regarding claim 33, Oguro teaches a method of using a cipher key to process data between a host and a tape cartridge having a tape media (Figs. 26-28, tape 2) and at least one auxiliary memory element (Figs. 26-28 and col. 4, line 50+ teaches of a MIC), the method comprising:

reading the cipher key (SCMS data stored within the MIC of the tape) from the auxiliary memory element (Fig. 26-28, col. 4, lines 50+ and col. 12, line 50 through col. 13, line 53 teaches wherein SCMS data stored in the MIC of a first tape is read);

reading data from a source (Fig. 26-28, col. 4, lines 50+ and col. 12, line 50 through col. 13, line 53, the video data is read from the tape to allow for playback);

processing the data with the cipher key (Fig. 26-28, col. 4, lines 50+ and col. 12, line 50 through col. 13, line 53 teaches wherein the system data process 28 reads the SCMS data and processes the stored information according to the SCMS data); and

writing the processed data to a depository (Fig. 26-28 and col. 12, line 50 through col. 13, line 53 teaches where the processed video data is written in the recording side).

Regarding claim 34, Oguro teaches the claimed wherein the act of reading the cipher key from the auxiliary memory element includes reading a first part of the cipher key from a first auxiliary memory element and reading a second part of the cipher key from a second auxiliary memory element in the tape cartridge (the SCMS data as discussed in claim 33 above. The SCMS data is a two bit data, whereby each bit occupies a separate space).

Regarding claims 35 and 36, Oguro teaches the claimed wherein the source is the host/tape media and the depository is the tape media/host, and wherein the act of processing the data includes encrypting the data from the host to create the processed data (the system as discussed in claim 33 above especially since the source and the depository can both be VCRs that can function bi-directionally, the claimed limitation is met.)

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 28-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over Oguro (US 5,907,656) in view of Tsumagari et al. (US 6,360,057).

Regarding claim 28, Ogura teaches a method of writing data to a tape cartridge having a tape media and an auxiliary memory element, the method comprising: writing information to the tape media (Figs. 26-28 and col. 12, line 50 through col. 13, line 53 teaches wherein video programs are recorded onto tapes);

However fails to particularly teach the features for:

transforming the information to transformed data, wherein the transformed data occupies less data storage than the information; and

writing the transformed data through an optical interface to the auxiliary memory element.

In an analogous art, Tsumagari et al. teaches in Figs. 10 and 48, of thumbnails that can be created for video programs. Thumbnails generated are transformed frames that occupies less information than the original video information.

Oguro teaches in col. 4, lines 50+ wherein "index information" can be stored in the MIC, and furthermore teaches that "reproducing a still image (photo image) from a selected program" can be created as part of data stored in the MIC.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the ability to create thumbnails as explicitly taught by Tsumagari so that that image maybe stored in the MIC of Oguro to allow for visual recognition of program to be played/processed.

However, the proposed combination of Oguro and Tsumagari fails to particularly teach wherein writing the transformed data is done using an optical interface. Although Oguro already teaches the basic idea to write the transformed data, however the interface in question is where the discrepancy lies.

It is noted that optical interface is old and well-known in the art; therefore, Official Notice is taken.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the well-known optical interface to write to an auxiliary medium into the proposed combination of Oguro and Tsumagari to give the proposed combination benefits of the optical interface of faster writing speeds and reliable data storage.

Claims 29-30 are rejected for the same reasons as discussed in claim 28 above, wherein the video program (which includes numerous still images) are written in the tape and the thumbnail information maybe stored into the MIC of Oguro.

Regarding claims 31 and 32, Oguro teaches the claimed further comprising: writing access permission information to the auxiliary memory element (as discussed in claim 33 above with the ability to store SCMS information); and reading access permission information from the auxiliary memory element (as discussed in claim 33

above with the ability to read the SCMS information when dubbing processes are requested).

7. **Claims 37-39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Oguro (US 5,907,656) in view of Yuen et al. (US 2003/0190138).

Regarding claim 37, Oguro teaches a method for a drive to initialize a cartridge without instructions from a host, wherein the cartridge has a storage media (Figs. 26-28 , tape 2) and an auxiliary memory element (col. 4, lines 50+ teaches of MIC on the tape), the method comprising:

providing a drive coupled to the host (Figs. 26-28, teaches of a reproducing side VCR 1);

inserting the cartridge into the drive (col. 4, lines 50+ teaches of "inserting tape into apparatus", a VCR);

detecting the cartridge in the drive (col. 4, lines 50+ teaches of the ability to detect the tape so as to allow "recording and reproducing operations are performed");

detecting the auxiliary memory element in the cartridge (col. 4, lines 50+ and col. 12, line 50 through col. 13, line 53 teaches wherein the MIC data is detected and read); and

However fails to particularly teach transferring data between the auxiliary memory element and the storage media.

Yuen teaches transferring data between the auxiliary memory element and the storage media (paragraphs 566-567 and 653 of recording index data in the VBI lines in

the recording medium and then the ability to transfer the index data to an auxiliary memory).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to transfer the index information between the auxiliary memory and the recording medium as taught by Yuen into the system of Oguro so that a backup of the data can be maintained.

Claims 38 and 39 are rejected for the same reasons as discussed in claim 37 above with the ability of the system to transfer index information between the auxiliary memory and the recording medium.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references teach tape medium including another storage medium for storing additional information describing the information stored on the tape medium.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GELEK TOPGYAL whose telephone number is (571)272-8891. The examiner can normally be reached on 8:30am -5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gelek Topgyal/
Examiner, Art Unit 2621

/Thai Tran/
Supervisory Patent Examiner, Art Unit 2621